IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5622 OF 2006

M/s.J.P. Construction & Ors. ...Petitioners
V/s.
The Mahanagar Co-op.Bank Ltd. & Ors. ...Respondents

Mr.S.S. Pakale for Petitioners.
Mr.S.K. Lanke for Respondent no.1.

CORAM : DR.S. RADHAKRISHNAN &
V.M. KANADE, JJ.

DATED : AUGUST 31, 2006

P.C. :-

1. Rule. Rule made returnable forthwith.

2. Heard learned Counsel for the petitioners and learned Counsel for the respondent no.1 who is the main contesting party.

3. In this petition, the main grievance of the petitioners is that the learned Chief Metropolitan Magistrate at Esplanade had passed an order on 11th July, 2006 wherein the petitioner nos.2 and 4 were not served with any notice.

4. Learned Counsel for the petitioners contends that none of the petitioners were served with the notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (In short "Securitisation Act").

5. Even the learned Counsel for the respondent-bank fairly states that even before the notice could be served, petitioner no.4 had expired and even with regard to petitioner no.2, there is no proper service.

6. Under the aforesaid facts and circumstances of the case, the only ground that the petitioners were not served under Section 13(2) of the said Act, we are inclined to quash and set aside the order passed by the learned Chief Metropolitan Magistrate under Section 14 of the Securitization Act.

7. The respondent no.2 Bank is at liberty to serve the petitioner with a fresh notice under Section 13(2)

of the Securitization Act and take further steps in the case.

8. Rule is accordingly made absolute.

(DR.S. RADHAKRISHNAN, J.)

(V.M. KANADE, J.)